



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/827,509 | 04/05/2001 | John Hindman | ODS-37 | 6107 |

1473 7590 12/24/2003
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

EXAMINER

COBURN, CORBETT B

ART UNIT PAPER NUMBER

3714

DATE MAILED: 12/24/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/827,509

Applicant(s)

HINDMAN ET AL.

Examiner

Corbett B. Coburn

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9, 12, 17, 18, 20-22, 30 & 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirsimaki (US Patent Number 4,001,551).

Claims 1, 17: Hirsimaki teaches a method for providing the projected effects of wagering on pari-mutuel pools to a user in an interactive wagering system. (Abstract)
The user provides input concerning a proposed wager that is associated with at least one pari-mutuel pool, pari-mutuel pool information, and the current odds for the proposed wager. The device calculates information that affects the user's potential winnings (i.e., the revised odds and payout) based on the user input and provides that information to the user. (Abstract)

Claims 2, 18: The user input is a wager amount. (Col 3, 41-45)

Claims 3, 19: The user input comprises selection of a wager type (i.e., win, place, or show). (Col 3, 41-47)

Claims 4-6, 20-22: Hirsimaki teaches a calculator for figuring the current and projected odds for a particular horse in a particular race. This inherently comprises the selection of at least one horse in a race at a particular racetrack.

Claim 7: The information obtained is pari-mutuel pool information. (Abstract)

Art Unit: 3714

Claim 8: The device can be used to determine current odds on a wager. (Col 3, 6-8)

Claim 9: The projected effect the proposed wager can have on the pari-mutuel pool is the projected odds for the proposed wager. (Col 1, 15-20)

Claims 12, 31: The projected effects are displayed to the user. (Fig 9)

Claim 30: Hirsimaki's device is a computer (i.e., a slide rule).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10, 11, 13-16, 23-39 & 32-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirsimaki as applied to claim 1, 17 above, and further in view of Mindes (US Patent Number 5,573,244).

Claim 10, 23: Hirsimaki teaches the invention substantially as claimed, but does not teach a telephone as the user interface. Mindes teaches providing input to a similar system via telephone. (Col 6, 29-32) Mindes describes the use of a digital electronic computer to calculate odds information. Use of a digital computer automates the manual process described in Hirsimaki, but requires an appropriate method of data input. Furthermore, the telephone is a ubiquitous device – virtually every household has one. This allows access to the system by more people, thus increasing the possible profits. It would have been obvious to one of ordinary skill in the art at the time of the invention to have a telephone as a part of the user interface in order to provide an appropriate input

Art Unit: 3714

device for a digital computer that can automate the manual process described in Hirsimaki while ensuring that most people have access to the system, thus increasing profit potential.

Claims 11, 14, 16, 24, 25, 27: Hirsimaki teaches showing the projected effect (i.e., announcing or displaying the projected effect) to the user. (Fig 9)

Claims 13, 26: Mindes teaches a user interface that includes a set top box. (322)

Claim 15: Mindes teaches a user interface that includes a computer. (302)

Claims 28: Mindes teaches displaying information about the game in windows. (Col 6, 33-38) While not disclosed in connection with a set top box, these windows serve to separate the information concerning different races, thus reducing player confusion. It would have been obvious to one of ordinary skill in the art at the time of the invention to have displayed the projected effects information in a window on a television in order to separate the information concerning different races, thus reducing player confusion.

Claim 29: Hirsimaki teaches the invention substantially as claimed. Hirsimaki teaches displaying both the current odds and the projected odds. The current odds are displayed by the track tote boards and the projected odds are displayed by the calculator. Hirsimaki does not teach displaying the odds in windows on a computer screen and toggling between current and projected odds screens. Mindes teaches displaying information about the game, including odds, in windows. (Col 6, 33-38) Mindes teaches that the window may occupy the entire screen. It is well known to toggle between windows that fill the entire screen.

Art Unit: 3714

Claims 32-62: Claims 32-62 are merely a restatement of claims 1-31 specifying electronic circuitry to perform the functions described therein. Hirsimaki fails to teach use of electronic circuitry to perform the input, calculation, or display functions. Mindes teaches using an electronic digital computer (300) to perform such functions. Electronic digital computers are extremely well known to the art. They are used to automate manual functions involving input, calculation, and display of data. It would have been obvious to one of ordinary skill in the art at the time of the invention to have used electronic circuitry (i.e., an electronic digital computer) to perform the input, calculation and display functions described in order to automate the manual process described in Hirsimaki.

Response to Arguments

5. Applicant's arguments filed 8 October 2003 have been fully considered but they are not persuasive.
6. Applicant argues that Hirsimaki fails to teach calculating the effect that the proposed bet would have on the pool because Hirsimaki fails to teach including the proposed bet in the pool. This is in error. Hirsimaki teaches including the total amount of the pool in the calculations. (Col 2, 15-27) Furthermore, Hirsimaki teaches that the device calculates the odds of the proposed bet relatively precisely. It is notoriously well known that in pari-mutuel betting the bet being made affects the odds. In a case where the player is making a relatively large bet, Hirsimaki could not possibly calculate the odds with relative precision if the player does not include the amount bet in the total pool amount.
7. Applicant's amendments the claims and specification have overcome the objections thereto and the rejection of the claims under 35 USC §112.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Scarne teaches background information concerning horse racing.
9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 3714

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



cbc



JESSICA HARRISON
PRIMARY EXAMINER